HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 1814 (S/S) of 2007

Deewan Singh Dhanik
S/o late Sri Dev Singh Dhanik,
Senior Clerk, Inter College, Kalagarh,
Presently residing at B- 435,
New Colony Kalagarh,
District- Pauri Garhwal. ---------- Petitioner

Versus

1. State of Uttarakhand through Secretary,
   Irrigation Department, Dehradun,
2. Executive Engineer, Shivir Prabandh Khand,
   Kalagarh, Uttar Pradesh,
3. Assistant Engineer, Shivir Prabandh Khand-I,
   Kalagarh, Uttar Pradesh. --------- Respondents

Sri G.S. Negi, learned counsel for the petitioner,
Sri Paresh Tripathi, learned Brief Holder for the Stat.
Smt. Beena Pandey, learned Standing Counsel for the State of U.P.,

Hon'ble M.M. Ghildiyal, J.

Heard Sri G.S. Negi, learned counsel for the petitioner, Sri Paresh Tripathi, learned Brief Holder for the State of Uttarakhand and Smt. Beena Pandey, learned Standing Counsel for the State of U.P.

By means of this writ petition, the petitioner has prayed for the following reliefs:-

i. To issue a writ, order or direction in the nature of certiorari quashing the recovery of the penal rent @ Rs. 1386.00 per month w.e.f. 1.8.2006 against the petitioner, which is being made by the respondent no.2 & 3 and also quash the letter dt. 22.09.2006 (annexure no.9) and recovery notice (annexure no.11),

ii. To issue a writ, order or direction in the nature of mandamus directing the respondent nos. 2 & 3 to consider the grievance of the petitioner for

allotment of ‘B’ type accommodation at New Colony, Kalagarh, up to he holds charge at Kalagarh,

iii. To issue appropriate writ, order or direction, which this Hon’ble Court may deem just, fit and proper in the circumstances of the case,

iv. To award the cost of the petition to the petitioner.

The petitioner is aggrieved against the order passed by the respondents by which penal rent of the Govt. accommodation under the occupation of the petitioner @ Rs. 1,386/- per month from 1st August 2006 till date was imposed to be realized from the petitioner.

Submission of the learned counsel for the petitioner is that earlier he was allotted quarter no. B-222 of the Irrigation Department, however he was directed to vacate the house because the same was damaged due to earthquake in the year 1999. It is contended that in the year 2006, the petitioner took possession of another Govt. accommodation, which fell vacant on account of retirement of one teacher. The present house, where the petitioner is residing, is not allotted to him by any competent authority, as such the respondents are realizing the aforesaid penal rent @ Rs. 1,386/- per month from 1st August 2006 till date.

Learned counsel for the petitioner has submitted the house rent for which he is entitled is being deducted from the petitioner’s salary as he is occupying the Govt. accommodation. He has further submitted that a number

of Govt. accommodations in type-B category are still lying vacant in the colony for which the petitioner has already applied long back, however the respondents have not allotted any Govt. accommodation to him till date.

In the aforesaid circumstances, in case, if Govt. accommodation is available in the colony, for which the petitioner is entitled, the authority concerned is directed to take decision on the application of the petitioner for allotment of Govt. accommodation in accordance with law within a period of one month from the date of production of a certified copy of this order.

So far realization of rent is concerned, the respondents may realize the rent from the petitioner strictly in accordance with law, after adjusting the sum, which has already been deducted from petitioner's salary as house rent. The petitioner may approach to the authority concerned for depositing the house rent, which is required to be paid by the petitioner in easy installments and it is expected from the authority concerned that they will consider the request of the petitioner in this regard.

With these directions, the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

December 28, 2007:
NCM: